IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.6919 OF 2007

Shri Vithalrao Ganpatrao Hande : Petitioner

versus

Mrs.Alka Ramesh Sharma & ors. : Respondents.

Mr.R.G.Ketkar i/by Mr.Sandip Shinde for the petitioner.

Mr.M.S.Karnik for Respondent No.1.

Mr.R.S.Khadapkar for Respondent Nos.3C & 3D.

CORAM : A.P.DESHPANDE, J.

DATED : SEPTEMBER 29, 2007.

P.C.

1. It is the case of the petitioner-father of the plaintiff, who is Defendant No.1 in the trial Court, that he had purchased the suit property in the name of his minor daughter prior to her marriage and, the plaintiff had executed a power of attorney in favour of the present

petitioner on 8.10.1986 before the Metropolitan Magistrate, 2nd Court, Vikhroli, Mumbai. The petitioner, acting under the authority vested on him under the power of attorney, performed various acts in relation to the said property. Belatedly the plaintiff instituted a suit for cancellation of the power of attorney and for cancellation and setting aside of the acts performed by the petitioner under the said power of attorney. In the plaint, the plaintiff has admitted execution of the document and the execution of the document is also admitted in the cross examination. Thus, in the submission of the petitioner, the document ought to have been exhibited as the execution has been admitted by the plaintiff. Aggrieved by the interlocutory order passed by the trial Court during the cross examination of the plaintiff declining to exhibit the document, the present petition has been filed.

2. I do not deem it appropriate at this stage to interfere with the order. The reason being that the purpose of the Defendant No.1 shall not be served completely by mere exhibiting the document inasmuch as the Defendant No.1 will

have to prove the contents of the document as well. The same can only be done as and when the Defendant No.1 and/or his witness steps into witness box, in whose presence the plaintiff has signed the power of attorney and deposes in that regard. At that stage, once this evidence is brought on record, the document can be exhibited. By the impugned order no prejudice is caused to the petitioner, hence I decline to interfere with the interlocutory order at this stage. Leaving all the questions open, to be adjudicated at a later point of time, the writ petition is summarily dismissed.

[A.P.DESHPANDE,J]